

ALCOHOL BEVERAGE TAX INFORMATION

(including distilled spirits, wine, apple cider and beer)

Wisconsin Department of Revenue

July 2005

INTRODUCTION

This document provides information concerning Wisconsin's alcohol beverage tax laws. It explains who needs an alcohol beverage permit, when returns are due, what records to keep, interest and penalties imposed on returns filed incorrectly, and many other related topics.

If you have questions, you may call or visit the department at:

2135 Rimrock Road
Madison, WI 53713
Telephone (608) 266-6702 or 261-8985

or write to:

Excise Tax Section
PO Box 8900
Madison, WI 53708-8900
FAX (608) 261-7049
E-mail: excise@dor.state.wi.us

Caution: The information in this document reflects Wisconsin laws as of July 1, 2005. Laws and rules enacted after this date may change the information and interpretations in this document.

IMPORTANT MESSAGE

Imported Alcohol Beverages – If you import alcohol beverages into Wisconsin from a foreign country, you are required to report the imported product on your Wisconsin beverage tax returns. The tax on imported product is payable by the permittee who is the "importer of record" with US Customs. Imported product may be received in Wisconsin directly from a foreign country via the Milwaukee Customs office or shipped into Wisconsin from a Customs facility in another state by a bonded shipping service.

I. DEFINITIONS

• **Distilled spirits** – Any beverage (except beer) made by a **distillation** process from agricultural grains, fruits and sugars, containing 0.5% or more of alcohol by volume. Sold under the name of, for example, whiskey, brandy, gin, rum, cordials.

• **Wine** – Any beverage (except beer) made by a **fermentation** process from agricultural products, fruits and sugars, containing 0.5% or more of alcohol by volume. Sold under the name of, for example, wine, vermouth, sake. Includes cider containing more than 7% alcohol by volume.

• **Cider** – Any beverage (except beer) obtained from the **fermentation of the juice of apples**, containing not less than 0.5% alcohol by volume and not more than 7% alcohol by volume. Cider can be flavored, sparkling or carbonated. Cider containing more than 7% alcohol by volume is taxed as wine.

• **Beer** – Any beverage made by the alcohol fermentation in water of barley malt and hops, with or without grains and sugar, containing 0.5% or more of alcohol by volume. The term "beer" is used in this document in place of "*fermented malt beverages*," the term for beer in Wisconsin law.

• **Liquor** – This term includes distilled spirits, apple cider and wine, and is used throughout this document.

• **Permittee** – A person who holds a beverage tax permit issued by the department. This term is used throughout this document.

II. IMPOSITION OF THE BEVERAGE TAXES

A. **LIQUOR TAXES** (distilled spirits, wine and apple cider)

These taxes are paid by the following permittees registered with the department (see Part IV):

1. The Wisconsin liquor wholesaler who imports liquor from a foreign country under US Customs bond.
2. The out-of-state shipper who ships liquor into Wisconsin from other states.
3. The Wisconsin manufacturer, rectifier or winery who produces or bottles liquor in Wisconsin.

Tax payments must be submitted by the above permittees along with their monthly liquor tax returns (AB-130; also see Part V).

• **Reciprocal Agreements (wine only)** – The department can enter into agreements with other states which allows a winery in one state to ship to individuals in the other state up to 9 liters of wine. The wine tax is paid by the shipper to the state from which the wine is being shipped. These wineries are required to submit annual reports to Wisconsin detailing these sales (AB-135 – Wisconsin Annual Reciprocal Wine Shipment Report). This informational report requirement is effective with the calendar year 2003 and should be filed by January 31st of the next year. Currently Wisconsin has reciprocal agreements with the States of California, Oregon and Washington.

B. BEER TAX

This tax is paid by the following beer permittees registered with the department (see Part IV):

1. Wisconsin breweries on all sales made in Wisconsin.
2. The out-of-state shipper who ships beer into Wisconsin from other states.
3. The Wisconsin wholesaler who imports beer into Wisconsin from a foreign country under US Customs bond.

Tax payments must be submitted by the above permittees along with their monthly beer tax returns (BT-100 for breweries, BT-106 for out-of-state shippers, and BT-108 for Wisconsin importers; also see Part V).

C. EXCEPTIONS TO THE BEVERAGE TAX

Beverage taxes are not imposed upon the following:

1. **Liquor...**
 - a. Liquor shipped to other states or foreign countries.
 - b. Sales and use of wine for sacramental purposes.
 - c. Liquor sold to industrial permittees for use in food items.
 - d. Liquor sold to hospitals for medicinal purposes.
 - e. Wine or apple cider made at home for consumption at home without compensation.
2. **Beer...**
 - a. Beer shipped to other states or foreign countries.
 - b. Beer sold to industrial permittees for use in food items.
 - c. Beer furnished by a brewer to employees without charge on brewery premises.
 - d. Beer which contains less than 0.5% alcohol by volume.

III. TAX RATES

A. DISTILLED SPIRITS

The tax rate on distilled spirits is 85.86¢ per liter plus an administrative fee of 2.906¢ per liter.

B. WINE

The tax rates are...

- Wine that is 14% or less of alcohol by volume, the tax is 6.605¢ per liter.
- Wine that is more than 14% alcohol by volume but not more than 21% of alcohol, the tax is 11.89¢ per liter.

Wine includes apple cider that contains more than 7% alcohol by volume.

C. APPLE CIDER

The tax rate on apple cider that is 7% or less of alcohol by volume is 1.71¢ per liter. **Caution:** cider that contains more than 7% of alcohol by volume is taxed at wine rates.

D. BEER

The tax rate on beer is \$2.00 per a 31 gallon barrel. Thus the tax on a 12 ounce can or bottle of beer is about 6 tenths of a cent (less than one penny).

Eligible producer tax credit – A brewer who produces less than 300,000 barrels of beer per year is eligible for a tax credit of \$1.00 per barrel on the first 50,000 barrels subject to Wisconsin beer tax. In determining a brewer's total production, all brands and labels of all production facilities regardless where located are combined.

E. INVENTORY (FLOOR) TAXES

- *Liquor Taxes* – When a liquor tax rate increases, a floor tax is imposed on permittees liable for paying the tax at the prior rate. The floor tax is the amount by which the liquor tax rate increases.
- *Beer Tax* – Currently there is no statutory authority to impose a floor tax on beer if the tax rate were to increase.

IV. OBTAINING AN ALCOHOL BEVERAGE PERMIT

In order to obtain an alcohol beverage permit from the department, you must submit a properly completed application to the department's Customer Service & Education Bureau Registration Unit. You can obtain an application by calling the department at (608) 261-6435. You must also obtain a Business Tax Registration (BTR) Certificate from the department if you do not have one. Information about the BTR certificate should accompany the application you receive for an alcohol beverage permit. There is a \$20 fee for the *Business Tax Registration Certificate* which is renewable every two years for \$10. You need only obtain one BTR certificate regardless of the number of permits or licenses you hold with the department.

There are many statutory requirements you must meet in order to obtain an alcohol beverage permit from the department. The requirements are too numerous to mention in this document but appear on the application forms you must complete to obtain an alcohol beverage permit. You may also need to obtain approvals from the federal government as well as the local municipality in Wisconsin in which your business will be located.

The department issues many different types of alcohol beverage permits. The permit you need depends upon the nature of your business and the products you purchase and/or sell. The various permits issued by the department are listed below. If you have any questions about the type of permit you need, call (608) 261-6435. Do not confuse the permits issued by the department with the retail license issued by your local municipal clerk (see item C below).

If you want to change the nature of your business after receiving a permit, please call us at (608) 261-6435 to see if you need to obtain another permit and file different tax returns with the department.

To obtain alcohol beverage permits from the department, there may be a supplemental fee you must pay. These supplemental fees are noted below.

A. LIQUOR PERMITS & SUPPLEMENTAL FEES

The following **liquor permits** are issued by the department (to handle distilled spirits, wine and apple cider). The supplemental fee payable to obtain a permit is also noted.

1. Wisconsin Liquor Wholesaler – \$1,000 fee
2. Wisconsin Manufacturer – \$1,000 fee
3. Wisconsin Rectifier – \$1,000 fee
4. Wisconsin Winery – \$200 fee
(includes apple cider producers in state)
5. Wisconsin Public Warehouse – \$200 fee
6. Wisconsin Limited Manufacturer – no fee
7. Industrial Wine – no fee
8. Industrial Alcohol – no fee
9. Out-of-state Shipper – \$500 fee
10. Sacramental Wine – no fee
11. Medicinal Alcohol – no fee
12. Salespersons (needed by each person who personally solicits orders in Wisconsin) – no fee

The department also issues the following **retail** liquor permits:

1. Sports Clubs – \$600 fee
2. Vessels – \$600 fee
3. Public Facilities and Airports – \$600

B. BEER PERMITS & SUPPLEMENTAL FEES

The following **beer permits** are issued by the department. The supplemental fee payable to obtain a permit is also noted.

1. Wisconsin Breweries – no fee
2. Wisconsin Wholesalers & Importers – no fee
3. Out-of-state Shippers – no fee
4. Industrial Beer – no fee
5. Wisconsin Public Warehouse – \$200 fee

The department also issues the following **retail** beer permits:

1. Sports Clubs – \$200 fee
2. Vessels – \$200 fee

C. MUNICIPAL LICENSE MAY BE NEEDED

If you plan to handle alcohol beverages in Wisconsin and/or sell them directly to consumers in Wisconsin, you should contact the clerk's office of the Wisconsin municipality (town, village or city) in which you intend to do business. You may need to obtain a license from the municipality. **A municipal license does not take the place of a permit issued by the department. Neither does a municipal license allow you to engage in wholesale activity or purchase untaxed product.**

D. ADDITIONAL PERMIT INFORMATION

• *Security Requirement* – You may be required to submit security guaranteeing your payment of the beverage tax. If security is required, your permit will not be issued until the security is received.

The amount of security required is twice a person's maximum monthly beverage tax but not less than \$1,000 nor more than \$100,000.

Acceptable types of security include, but are not limited to: bonds, certificates of deposit, or cash.

• *Label Approval* – No alcohol beverage product can be shipped into Wisconsin and sold until the federal government has approved the labels which will appear on the product container. It is not necessary to submit copies of federal label approvals to the department.

• *Display of Permit* – Each permit must be conspicuously displayed at the place of business for which issued.

• *Responsible for Actions of Liquor Salespersons* – All liquor permittees are responsible for the actions of their salespersons. A permit may be in jeopardy if any salesperson violates the liquor laws and regulations of this state.

• *Shipments into Wisconsin from Out-of-state Shippers* – All shipments of liquor or beer from another state to a liquor or beer wholesaler in Wisconsin must be unloaded at and distributed from the wholesaler's warehouse in Wisconsin.

• *Confiscation of Alcohol Beverage Products* – The holder of an out-of-state liquor and/or beer shipper's permit may only ship alcohol beverage products to persons in Wisconsin authorized by the department to receive the products. Shipments to unauthorized persons may be confiscated.

by the department's Alcohol & Tobacco Enforcement Section. Out-of-state shippers should call the department at (608) 261-6435 when in doubt as to whether a person in Wisconsin is authorized to receive products. **Alcohol beverages** found in Wisconsin on which the tax has not been paid also may be confiscated. In addition, any alcohol beverage product possessed or sold under the wrong permit may result in confiscation of product. Persons who have product confiscated by the department may also be subject to criminal prosecution.

• **Additional Location** – If you begin operations at another location other than the location covered by your permit, contact the department's Registration Unit at (608) 261-6435 immediately because you must obtain a permit for the additional location.

• **Reporting Name/Address/Ownership Changes or Ceasing Operations** – You should notify the department in writing when your business undergoes any change to its name, address or ownership, or when you cease operating in Wisconsin. If you receive a different Federal Employer Identification Number, you must file a new application with the department and update your security. Call (608) 261-6435 if you have any questions about your permit.

V. FILING TAX RETURNS

After your application for an alcohol beverage permit has been approved by the department, you will be sent a supply of reporting forms along with your permit. The reporting forms you receive depend upon the type of permit you are issued.

A. WHO MUST FILE TAX RETURNS

Most alcohol beverage permittees registered with the Wisconsin Department of Revenue must complete and file a return with the department summarizing their transactions and computing any tax due (see Part II and the exceptions below).

Persons holding the following liquor and/or beer permits with the department do not have to file monthly tax returns:

1. Wisconsin industrial wine permit
2. Wisconsin industrial alcohol permit
3. Sacramental wine permit
4. Medicinal alcohol permit
5. Wisconsin and out-of-state liquor salespersons
6. Wisconsin public warehouse
7. Sports club retail liquor and beer permits
8. Vessel retail liquor and beer permits
9. Public facility & airport retail liquor permits
10. Wisconsin beer wholesalers who deal exclusively with other Wisconsin beer wholesalers (but file an informational report)

Persons holding the above permits are either exempt from the beverage tax (1 through 4), do not actually own the products being sold (5 & 6), or only buy products on which the tax has already been paid (7, 8, 9 & 10).

B. BEVERAGE TAX RETURNS TO FILE

Return must be filed by permittees even when they do not have any transactions during a month, and therefore do not owe any tax. In these instances, simply indicate "no shipments" on your return.

1. Liquor Tax Returns

Persons holding a liquor permit with the department who are required to file a monthly beverage tax return file form AB-130 plus schedules. There is only one liquor tax return regardless of the nature of your business unlike beer tax which has four different types of returns that may be filed depending on the permit held with the department. *All alcohol beverages reportable on a liquor tax return must be expressed in liters.*

• **Brand and Type Schedule** – Permittees liable for paying the tax on **distilled spirits** to the department must submit with their monthly reports a schedule listing distilled spirits (by brand and type) shipped to Wisconsin that month. Call the department at (608) 266-6702 for a sample schedule format for the listing.

• **Out-of-state Shippers Holding More Than One Permit Should File a Consolidated Liquor Tax Return (AB-130)** – Out-of-state shippers holding more than one permit with the department should file one monthly liquor tax return on which all liquor transactions are consolidated. These shippers will have to let us know the location from which the consolidated return will be filed.

2. Beer Tax Returns

The four beer tax returns are:

1. Wisconsin Brewery Fermented Malt Beverage Tax Return, BT-100.
2. Wisconsin Wholesaler's Report of Tax-Paid Beer, BT-104 (a zero tax informational report).
3. Fermented Malt Beverage Tax Return, BT-106, (filed by out-of-state shippers).
4. Wisconsin Wholesalers' Return of Imported Beer, BT-108.

All beer reportable on the BT-100, 106 & 108 must be expressed in barrels.

3. Common Carrier Return

Common carriers that operate in Wisconsin (for example, trains and airplanes) on which alcohol beverages are consumed must file a quarterly return with the department and pay the tax on the beverages consumed in the state. Carriers are not required to obtain a permit from the department. The return (AB-154) they

file is a combination return on which they report all alcohol beverage sales in Wisconsin, and compute the various alcohol beverage taxes owing.

• *Invoices Not Needed* – It is not necessary to submit invoices with monthly returns. The department will contact a permittee when an invoice is needed.

Call us at (608) 266-6702 if you have any questions about preparing alcohol beverage tax returns, or if you need any reporting forms.

B. DUE DATE OF RETURNS

Your tax return is due 15 days after the end of the month following the month covered by your return. For example, a return for the month of September is due October 15. To be timely filed, a report must be postmarked by a United States Post Office on or before its due date and received by the department within five days of the due date.

Caution: A postage meter is not an acceptable substitute for an official postmark of a United States Post Office when the department must determine if a return is timely filed.

C. WHERE TO FILE RETURNS

All alcohol beverage tax returns and accompanying remittances should be sent to:

Wisconsin Department of Revenue
Excise Tax Section
PO Box 8900
Madison, WI 53708-8900

D. EFT TAX PAYMENTS

Taxes can be paid to the department by electronic funds transfer (EFT). Information about EFT can be obtained by calling (608) 264-9918.

E. LATE-FILED RETURNS

Returns which are not timely filed are subject to the following statutory late-filing fee, interest and penalty:

1. A mandatory \$10 late-filing fee.
2. Interest on the tax due at the rate of 1.5% per month calculated from the due date of the return until date of tax payment.
3. A penalty of 5% of the tax due for each month the required return is not filed (not exceeding 25% of the tax due).

F. REVOCATION OF PERMITS

It is very important that beverage tax permittees file their tax returns timely and pay any tax due. Permittees with poor filing and/or payment records may have their permit(s) revoked by the department.

VI. HOW TO CORRECT A PRIOR RETURN FILED

If you need to change a return previously filed, send your "corrected" return plus schedules labeled "corrected" and any remittance to the department at the following address:

Wisconsin Department of Revenue
Post Office Box 8900
Madison, WI 53708-8900

VII. REFUNDS OF TAXES PAID

Permittees can receive a beverage tax refund for the following:

1. Beer and liquor spoiled or unfit for consumption [file form AB-605 with the department; call (608) 266-6702 for this form].
2. Beer and liquor shipped to wholesalers outside Wisconsin (send letter to department requesting refund and include invoices showing out-of-state destination).
3. Liquor supplied to hospitals (medicinal purposes) or to institutions of learning or museums for non-beverage purposes.
4. Wine sold for sacramental purposes.
5. Beer sold to the Armed Forces [file form BT-612 plus invoices with department; call (608) 266-6702 for this form].

VIII. RECORD KEEPING

You must keep a complete copy of your returns and all records pertaining to your business for at least four years. The records you keep must enable you and the department to determine the correct amount of your tax liability.

The required records include but are not limited to your product manufactured, purchases, receipts, inventories, sales (taxable and exempt), shipments to permittees in other states, and product returned to the manufacturer as unsalable. You are required to keep accurate records of all types of product on hand, and to take and record a physical inventory of each product on hand at each location at the close of business on the last day of every month. If you make nontaxable sales, you must maintain records of these sales including the name and address of the purchaser, date of sale, the amount of product sold, and that the state tax was not included in the invoice price. Your records must be kept on the premises described on your permit and in a manner easily accessible for review by department representatives.

Caution: Presumption Law – When records are not maintained, Wisconsin law presumes that **all** products you purchase or receive are subject to tax without benefit of any deductions. Therefore, it is very important that you maintain sufficient records to show how you determined your tax liability. Call the department at (608) 261-8985 if you have any questions about what records to keep.

IX. FILING INCORRECT RETURNS, CRIMINAL CHARGES AND DELINQUENT FEE

• *Incorrect Returns* – The following interest and penalties may be applied when you file incorrect tax returns:

1. Unpaid taxes bear interest at the rate of 12% per year.
2. Refunded taxes bear interest at the rate of 9% per year.
3. Negligence penalty of 25% of the additional taxes due if there is negligence in filing a return.
4. Fraud penalty of 50% of the tax due if there is intent to defeat or evade the tax.

When an incorrect return is filed late, the statutory late-filing fee, interest and penalty will also be applied (see Part V).

• *Other Charges* – The following violations can result in additional charges being brought against a person: filing a false or fraudulent return or helping another person to do so with the intent to defeat or evade the tax; failing to keep the records required by the department; refusing to allow the examination or inspection of business premises and records; displaying or using a permit known to be fictitious, canceled, revoked or altered.

• *Delinquent Fee* – If the department sends you a billing and you do not pay it by its due date, the billing may be subject to a delinquent tax collection fee. The fee is the greater of \$35 or 6.5% of the unpaid tax, interest and penalties that become subject to the delinquent tax collection action.

X. REQUESTING ADDITIONAL REPORTING FORMS AND ASSISTANCE

• *Tax Forms Requests* – When you need additional reporting forms, call (608) 266-6702 or FAX (608) 261-7049.

• *Questions About Preparing Beverage Tax Returns and Wisconsin's Beverage Tax Laws* – Call (608) 266-6702 or 261-8985, or FAX (608) 261-7049.

• *Questions About Obtaining an Alcohol Beverage Permit from the Department* – Call (608) 261-6435 or FAX (608) 267-1030.

XI. BEER PRODUCTION & LIQUOR STATISTICS

Every month the department compiles statistics of Wisconsin brewery production and beer shipments into Wisconsin, along with winery and liquor statistical reports. By statute, these statistical reports are available to the public. There is an annual charge of \$30 for each report. Call (608) 266-6702 if you want more information about these reports.

XII. BEVERAGE TAX EVASION

Persons who wish to report suspected cases of beverage tax evasion can contact the Wisconsin Department of Revenue at (608) 266-6757.

XIII. INDIVIDUALS BRINGING LIQUOR INTO WISCONSIN

Under Wisconsin law, no person may bring any liquor (distilled spirits or wine) into Wisconsin unless that person holds a valid liquor permit issued by the Wisconsin Department of Revenue. However, the law contains the following exceptions for individuals (not available to businesses):

1. Individuals who change their domicile and move into Wisconsin from another state or foreign country may bring liquor into Wisconsin without a permit from the department or payment of the Wisconsin liquor tax providing the liquor is part of their household goods.
2. Individuals who have been in a foreign country for at least 48 hours may bring into Wisconsin no more than 4 liters of liquor in sealed original containers without payment of the Wisconsin liquor tax. In addition, the liquor must be in that individual's immediate possession and may not be sent, shipped or carried into Wisconsin in some other manner.
3. An active duty member of the military who has been out of the country for duty or training for at least 48 hours may bring into Wisconsin no more than 16 liters of liquor in sealed original containers without payment of the Wisconsin liquor tax. The liquor must be in that individual's immediate possession and may not be sent, shipped or carried into Wisconsin in some other manner.

Any person or individual who violates the above provisions will have the liquor confiscated and may be subject to monetary penalties and possible imprisonment.